

# HOUSE BILL 150

A2

11r1156  
CF SB 166

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By: **Frederick County Delegation**

Introduced and read first time: January 26, 2011

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Frederick County – Wine Consumption – Restaurants and Clubs**

3 FOR the purpose of allowing an individual in a restaurant or club for which a certain  
4 alcoholic beverages license is issued in Frederick County to consume under  
5 certain circumstances wine not purchased from or provided by the restaurant or  
6 club; authorizing a license holder to charge an individual a certain fee under  
7 certain circumstances; applying the sales tax to the fee; requiring a certain  
8 individual to dispose of or remove certain wine after finishing a meal; allowing  
9 an individual to remove from the licensed premises a bottle of wine, the  
10 contents of which are only partially consumed, if the license holder or an  
11 employee of the license holder inserts a cork in or places a cap on the bottle;  
12 specifying that a certain bottle of wine is an “open container” for a certain  
13 purpose; altering a certain definition; and generally relating to alcoholic  
14 beverages in Frederick County.

15 BY repealing and reenacting, with amendments,  
16 Article 2B – Alcoholic Beverages  
17 Section 12–107(b)(2)  
18 Annotated Code of Maryland  
19 (2005 Replacement Volume and 2010 Supplement)

20 BY adding to  
21 Article 2B – Alcoholic Beverages  
22 Section 12–107(b)(10)  
23 Annotated Code of Maryland  
24 (2005 Replacement Volume and 2010 Supplement)

25 BY repealing and reenacting, with amendments,  
26 Article – Tax – General  
27 Section 11–101(m)  
28 Annotated Code of Maryland

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2010 Replacement Volume)

2 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
3 MARYLAND, That the Laws of Maryland read as follows:

4 **Article 2B – Alcoholic Beverages**

5 12–107.

6 (b) (2) [It] **EXCEPT AS PROVIDED IN PARAGRAPH (10) OF THIS**  
7 **SUBSECTION, IT** shall be unlawful for any person to drink on the licensed premises of  
8 any license holder any alcoholic beverages not purchased from the license holder on  
9 said premises and not permitted by this article to be consumed on the premises; and it  
10 shall be unlawful for any license holder to permit any person to drink any alcoholic  
11 beverage not purchased from the said license holder on the premises covered by the  
12 license which he holds and not permitted by this article to be consumed on the  
13 premises.

14 **(10) (I) THIS PARAGRAPH APPLIES ONLY IN FREDERICK**  
15 **COUNTY.**

16 **(II) AN INDIVIDUAL IN A RESTAURANT FOR WHICH ANY**  
17 **CLASS B ALCOHOLIC BEVERAGES LICENSE IS ISSUED OR IN A CLUB FOR WHICH**  
18 **ANY CLASS C ALCOHOLIC BEVERAGES LICENSE IS ISSUED MAY CONSUME WINE**  
19 **NOT PURCHASED FROM OR PROVIDED BY THE LICENSE HOLDER IF:**

20 **1. THE WINE IS CONSUMED WITH A MEAL; AND**

21 **2. THE INDIVIDUAL RECEIVES THE APPROVAL OF**  
22 **THE LICENSE HOLDER.**

23 **(III) A LICENSE HOLDER THAT ALLOWS AN INDIVIDUAL TO**  
24 **CONSUME WINE DESCRIBED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH**  
25 **MAY CHARGE THE INDIVIDUAL A FEE FOR THE PRIVILEGE NOT EXCEEDING \$25,**  
26 **ON WHICH A SALES TAX SHALL BE IMPOSED.**

27 **(IV) 1. THE INDIVIDUAL SHALL DISPOSE OF OR REMOVE**  
28 **WINE DESCRIBED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH THAT**  
29 **REMAINS AFTER FINISHING THE MEAL.**

30 **2. THE INDIVIDUAL MAY REMOVE FROM THE**  
31 **LICENSED PREMISES A BOTTLE OF WINE, THE CONTENTS OF WHICH ARE ONLY**  
32 **PARTIALLY CONSUMED WITH THE MEAL, IF THE LICENSE HOLDER OR AN**  
33 **EMPLOYEE OF THE LICENSE HOLDER INSERTS A CORK IN OR PLACES A CAP ON**  
34 **THE BOTTLE.**

1                   **3. A BOTTLE OF WINE THAT IS REMOVED FROM THE**  
2 **LICENSED PREMISES UNDER SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH IS**  
3 **AN “OPEN CONTAINER” FOR PURPOSES OF § 10–125 OF THE CRIMINAL LAW**  
4 **ARTICLE.**

5                   **Article – Tax – General**

6 11–101.

7           (m) “Taxable service” means:

8                   (1) fabrication, printing, or production of tangible personal property by  
9 special order;

10                  (2) commercial cleaning or laundering of textiles for a buyer who is  
11 engaged in a business that requires the recurring service of commercial cleaning or  
12 laundering of the textiles;

13                  (3) cleaning of a commercial or industrial building;

14                  (4) cellular telephone or other mobile telecommunications service;

15                  (5) “900”, “976”, “915”, and other “900”–type telecommunications  
16 service;

17                  (6) custom calling service provided in connection with basic telephone  
18 service;

19                  (7) a telephone answering service;

20                  (8) pay per view television service;

21                  (9) credit reporting;

22                  (10) a security service, including:

23                         (i) a detective, guard, or armored car service; and

24                         (ii) a security systems service;

25                  (11) a transportation service for transmission, distribution, or delivery  
26 of electricity or natural gas, if the sale or use of the electricity or natural gas is subject  
27 to the sales and use tax; [or]

28                  (12) a prepaid telephone calling arrangement; **OR**

1                   **(13) IN FREDERICK COUNTY, THE PRIVILEGE GIVEN TO AN**  
2 **INDIVIDUAL UNDER ARTICLE 2B, § 12-107(B)(10) OF THE CODE TO CONSUME**  
3 **WINE THAT IS NOT PURCHASED FROM OR PROVIDED BY A RESTAURANT OR**  
4 **CLUB.**

5                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
6 July 1, 2011.